

## SENATE—Friday, December 29, 1995

The Senate met at 12 p.m. and was called to order by the Honorable DIRK KEMPTHORNE, a Senator from the State of Idaho.

The PRESIDING OFFICER. Our opening prayer will be offered by our guest Chaplain, Father Paul Lavin, pastor of St. Joseph's on Capitol Hill, Washington, DC.

## PRAYER

The guest Chaplain, Father Paul Lavin, pastor of Saint Joseph's on Capitol Hill, Washington, DC, offered the following prayer:

Let us pray:

We stand before You, O Lord, conscious of our sinfulness, but aware of Your love for us.

Come to us, remain with us, and enlighten our hearts.

Give us light and strength to know Your will, to make it our own and to live it in our lives.

Guide us by Your wisdom, support us by Your power, keep us faithful to all that is true.

You desire justice for all; enable us to uphold the rights of others; do not allow us to be misled by ignorance or corrupted by fear or favor.

Glory and praise to You for ever and ever. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, December 29, 1995.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DIRK KEMPTHORNE, a Senator from the State of Idaho, to perform the duties of the Chair.

STROM THURMOND,  
President pro tempore.

Mr. KEMPTHORNE thereupon assumed the chair as Acting President pro tempore.

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senate majority leader is recognized.

## SCHEDULE

Mr. DOLE. I thank the Senator from Idaho.

Mr. President, the time for the two leaders has been reserved, and there will be a period for morning business until 12:30 p.m., with Senators permitted to speak for up to 5 minutes each. I do not anticipate any rollcall votes today.

I am going to make a request, but I know it is going to be objected to. I hope we can revisit it later this afternoon because most of us would like to see everybody back to work. A week ago today, we passed in the Senate by unanimous consent a proposal to deem all Government employees essential so they can go back to work and not be in violation of anything, and also provided for pay for those Federal employees.

So it is my hope that we do not have to wait until next week to resolve this. It is my understanding that we may be in session throughout the afternoon subject to the call of the Chair in the event the House should take some action on the measure we passed last week.

Yesterday, in an effort to at least get some people back to work, the Speaker and I wrote a letter to the President of the United States. It was not intended to be critical. There is nothing critical in it, because we are in the midst of budget negotiations, and we agreed not to discuss the budget negotiations. But it was our thought perhaps if we passed Interior, and State, Justice, Commerce, and HUD-VA, that would put a lot of people back to work. There are some things the President does not like in those bills. We can resolve those differences in the budget agreement. He can sign the bill and we would not need a CR to cover most of the employees not working now.

Then we have the Labor-HHS bill we have been unable to bring up because of objection on the other side of the aisle. We have had two cloture votes and lost on party-line votes.

That leaves the D.C. appropriations bill. There is a continuing resolution for the District government until January 3. And then that leaves the foreign ops bill, which we still hope to resolve. I know the Senator from Vermont has been directly involved in that, along with the Senator from Kentucky, Senator McCONNELL, and others. It is still our hope maybe we can resolve that today if possible.

I guess the point I want to make is, there is a 3:15 p.m. meeting at the White House with budget negotiators. I will certainly update the Senate as to the progress following that meeting. What we have agreed to do after each meeting is issue a joint statement so it

will not upset anybody and somehow get it off track.

It is my view that the American people want us to reach an agreement on a balanced budget regardless of party, and I am talking about people outside the Capitol, people out in the real world, like some would say. I have had an opportunity to meet with some of those people in North Carolina and Iowa in the past week. I think they want us to do this for the right reason, not that it is a game, or not that it is Republicans versus Democrats, but that it would, if we could get a balanced budget agreement, if the President was on board and it did pass the Congress, then we believe, based on experts, that interest rates would drop 2 percent, for example. That is 2 percent on a college loan, 2 percent on a car loan, 2 percent on a farm loan or home loan, and that would be in the interest of all Americans, certainly regardless of party or regardless of philosophy.

So that is why I think there is a good-faith effort on the part of the President and on the part of the leadership, Republican and Democratic leadership in the House and Senate, and we will proceed this afternoon at 3:15. We are prepared to stay through the weekend, if necessary. Sooner or later we have to reach out and make some of the tough decisions on Medicare and taxes, but, in my view, if we are serious about this, we can do it, or if we cannot reach an agreement, we ought to disagree and Congress can do what Congress feels must be done and the President can do what the President thinks must be done.

Having said that, I will also advise my colleagues hopefully in the next couple of hours what I anticipate the program to be for next week. We do start a new session of Congress on Wednesday of next week. I guess we have been in like this before a couple of times.

I am advised we would come in at 11:55 next Wednesday, adjourn sine die, and then at noon, 5 minutes later, start the new session. But I will give all the other details. I am not certain how many of my colleagues will be present at that time.

## UNANIMOUS-CONSENT REQUEST—H.R. 1643

Mr. DOLE. Mr. President, based on what I said earlier, I now ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 1643 regarding MFN status for Bulgaria, and that the Senate now proceed to its immediate consideration; that all after the enacting

clause be stricken and the text of H.R. 2099, HUD-VA, H.R. 1977, Interior, and H.R. 2076, State, Justice, Commerce, as vetoed by the President, be inserted, the bill be advanced to third reading and passed, and the motion to reconsider be laid upon the table, all without any further action or debate.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. LEAHY. Mr. President, reserving the right to object, I ask that the unanimous-consent request be modified to provide for a substitute amendment which would reopen the Government and keep it open until January 30. Absent such a modification, I object.

Mr. DOLE. Mr. President, I reserve the right to object. I will just state to my friend from Vermont that we both share the same feeling about returning employees to work. But if we can, as I indicated earlier, get these bills down to the President, agree with the President any problems he has with these bills will be resolved in the budget agreement, then these employees will be back to work until the end of the fiscal year. So it would be permanent, it would not be a 30-day continuing resolution. That would leave, as I said, the District of Columbia, which is now under a continuing resolution, and Labor-HHS, if I can convince my colleagues to let us bring that up, and then foreign ops where there is only one difference holding up that very important piece of legislation. I would be constrained to object on that basis.

The ACTING PRESIDENT pro tempore. Is there objection to the majority leader's original unanimous-consent request?

Mr. LEAHY. Reserving the right to object further. I will note that I share the distinguished majority leader's—one of the finest majority leaders this Senate has had—desire to go back, but I cannot agree to a unanimous-consent to, in effect, override vetoes of the President by unanimous consent. So I do object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. DOLE. Mr. President, I had not thought of that, but I think that probably would be something to think about. These are separate bills, not the ones vetoed by the President. It would be new bills. They would be identical to the ones he vetoed. But the one additional ingredient here is that we are on these budget negotiations, and we are serious about it—the President is, I am, the Speaker is, Senator DASCHLE and Congressman GEPHARDT are.

I know on the Interior bill, for example, there are only about three reasons the President said he vetoed that bill. Those are all the parts and all the things we are hearing about on the nightly news. We ought to be able to resolve that. Maybe we can come back later and try, instead of these three at once, maybe sending down one we

might be able to work out. We would do this only with the agreement of the President. So we are not trying to do anything here that the President would not sign off on, and I intend to raise that at our 3:15 meeting and tell him in good faith that if he would let us send down these one or two bills, we are prepared to resolve differences as part of the budget agreement.

I thank my colleague from Vermont. Maybe we can revisit this in a different form later today.

Mr. LEAHY. If the distinguished majority leader would yield, Mr. President, I share his concern and desire to put the Government back to work. This is not a thing that is helping anybody. They should be back. I wish him well in his meetings with the President. I have felt, if I might state frankly, that if the issue to be resolved in this budget impasse was left to this Chamber, Republicans and Democrats could come together with the President. It would mean that we would not have a Clinton budget, a Dole budget, a Leahy budget, but we might have the best of all of them and we would have a balanced budget.

I have been in negotiations and conference committees with the distinguished majority leader on everything from agriculture to foreign policy to finance and tax matters. I know that while he is a strong and tough bargainer, I know he also wants the Government to operate. I believe there is the possibility to do this and I hope we might.

#### ORDER FOR RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. DOLE. Mr. President, I will make one more unanimous-consent request.

I ask unanimous consent that following the remarks of Senators LEAHY, DORGAN, and NICKLES—unless there are others wishing to speak—the Senate would stand in recess subject to the call of the chair.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

#### ORDER OF PROCEDURE

Mr. DORGAN. Mr. President, I wonder if I might make a comment. I understand the purpose of both objections. The majority leader, I know, recognizes that the passage of a clean CR would mean that everyone would go back to work immediately. It is true that it would be only as long as the CR lasted, but it would end the shutdown.

I understand the circumstances which required the Senator from Kansas to object to that at this point. I wish them well in the discussions with the President this afternoon. In the event this were to go on for several more days, can the majority leader foresee circumstances under which a

clean CR might be accomplished so that all Federal workers might go back to work immediately?

Mr. DOLE. Well, I am not certain there will be a CR, but something has to be done. That is my view. I cannot speak for all of my colleagues in the House and Senate. But I think there is some recognition—there are a couple of concerns that people have. First of all, as I have said before, the employees are sort of the pawns in this game. This is a struggle for whatever we hope will happen over the next 7 years. It is very important. But to somebody out there who is not working and only lives from paycheck to paycheck, it is not a very happy choice, and they should be paid, even though some are saying, "Well, you are paying people for not working." My view is that if it was voluntary on their part, you should not, but it is involuntary. They cannot go to work. Some tried, in Baltimore, to show up for work and they were told to go home. That is a long answer, I guess, to saying there has to be some way around this. That is why I thought, yesterday, that maybe the appropriations bills—if the President would consent to that—then we can probably figure out a way to get Labor-HHS out of here. We have one little provision—and the Senator from Vermont knows more about it than I do—on the foreign ops bill. I will work with the Senator from North Dakota.

Mr. LEAHY. Mr. President, if the majority leader is still on the floor, I hope that he realizes—I am sure he does—that there are many of us—I would say the majority of both Democrats and Republicans—who do want to come together on this issue and get it here in the Senate and get this finished. He mentioned the foreign ops bill, which is one where the distinguished Senator from Kentucky [Mr. McCONNELL] and I had the bill on the floor. We had, I believe, 193 items in disagreement with the other body. We settled 192 of the 193, and I think it is unfortunate that it is held up.

It is beginning to create a problem in the Middle East peace process with the Camp David countries. I think that is of some significance. I know all of us on the floor support the help we give those countries, especially at this critical time. I hope we might work that out. I think we can go through dozens of other issues, where it seems that the solution is so close and so within our grasp. Frankly, Mr. President, I wish the majority leader, the Speaker, and the President all the best in their negotiations, and the distinguished Democratic leaders in both the House and the Senate, who will join with them.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction

of morning business not to extend beyond the hour of 12:30 p.m. with Senators permitted to speak therein for not to exceed 5 minutes.

The Senator from Oklahoma is recognized.

#### THE PRESIDENT'S VETO MESSAGES

Mr. NICKLES. Mr. President, I want to make a comment to the majority leader. He mentioned during his comments that he would encourage the President to sign the three bills he has vetoed and would be willing to work with him to work out some of the problems that he had. I have a copy of the President's veto message on the Interior bill. I have reviewed all of these. In most cases, the differences are very small. I cannot help but think that the majority leader and the President could work out the differences. There are a couple items dealing with dollars, but a very insignificant amount as far as the total. This is a \$12 billion bill. The differences in dollars is very small.

A few issues maybe need to be clarified as far the administration and so on. There is no reason why this bill should not be signed. I know there was a front page article in the Washington Post today. I know there is a lot of concern about visitors not being able to visit parks and museums. There is no reason whatsoever that this bill should not be signed.

So I encourage the majority leader in his meeting with the President to see if we cannot make a couple small changes in the Interior bill, as well as the Commerce, State, Justice, and the VA-HUD bill, which would relieve a lot of the problems and anxiety for a lot of people all across the country, not just the employees, but also constituents that would like to have access to the parks and to the museums.

So I compliment the majority leader for taking that effort to the President. Hopefully, he will concur, and maybe we can at least resolve the conflict on three of these major items.

Mr. LEAHY addressed the Chair.

The ACTING PRESIDENT pro tempore. The acting Democratic leader is recognized.

#### HELPING VICTIMS OF CRIME

Mr. LEAHY. Mr. President, there are some things, however, that are getting through. The Senate, in one of its final votes before adjourning for Christmas, passed legislation aimed at more than doubling the assistance that my State and others will have in hand to help victims of domestic crime and terrorism.

I mention this, Mr. President, because I think of the years I spent as a prosecutor and I remember so many times we spent hundreds of thousands of dollars to prosecute a perpetrator,

especially of a violent crime, both in the prosecution and in the incarceration, but the victim was usually the forgotten person. The victim got no assistance, the victim got no help, the victim was left to fend for himself or herself.

What we have done now is raise to half a million dollars in a special victims fund for Vermont, under the Victims of Crime Act and under an amendment that I propose, that will help these people. I think this makes a great deal of sense because the money comes not from the taxpayers, the money comes from the criminals. The assessments and the fines to the criminal will go into this fund.

Again, as a former prosecutor, I believe we should bring strong and effective prosecution as quickly as possible in these serious crimes. We have seen what happened in places like Oklahoma City. Let us not forget the victims. When we are setting out the punishment for the perpetrator of the crime, when we add fines and assessments, the money which can go to help victims all the better. In my experience, the victim is usually the person forgotten. All attention is on the criminal. This way, we will keep the attention on those convicted of violent crimes, but we will make them pay into a fund to help the victims.

I think it is much better. I think victims must be treated with dignity and assisted and compensated for their suffering. Who better to pay for the restitution than the perpetrators of those crimes themselves? I thank the Members of the Senate who have joined with that.

#### THE BUDGET

Mr. LEAHY. Mr. President, we have talked about the budget. I have listened to the distinguished majority leader. I am absolutely convinced that if the distinguished Republican leader and the distinguished Democrat leader in this body could sit down with the President that we could reach those areas of compromise.

We have to understand that no matter what the issue is here, when there are many, many differing views, that nobody wins totally. We do not pass a Gingrich budget or a Dole budget or a Daschle budget, a Clinton budget or a Leahy budget, but we can pass a budget for this country and one that will bring us to a balanced budget but will also allow at least bipartisan cooperation on issues like education, environment, medical care for the elderly, and so forth.

I was concerned in the other body when I hear some say, "Well, let's lock everybody in a room and throw the key away until this is settled." I say to those same people, why did you not stay here last weekend and do it? Why did you not stay and turn the key on your own doors and stay here?

They are claiming over there in the other body that this is for a more efficient Government. This is the least efficient way to run a government, let alone a business—send everybody home so no work is being done, but then people are being told they will be paid for their lost time. They should be paid because it was not through their fault, but the American taxpayer is not being paid for lost services.

These Federal workers want to go back to work, they want to help run this country, they want to process the passport claims and the veterans claims and everything else. They cannot understand why we will not make it possible.

Frankly, I think some Members of Congress ought to be asked—those who feel we should lock up the leadership and the President—ought to be asked, why did you leave last weekend? Did you go home for a Christmas vacation? Did the taxpayers pay for your airplane fares home? Of course they did. Did the taxpayers pay for your salary while you were home making political speeches? Of course they did.

Then they also ought to be asked: Do you not think it would have been better to stay and get the country back to work, get the Government back to work, and stop these shenanigans?

As I said before, I have been in negotiations, some very tough negotiations, with the distinguished majority leader and the distinguished Democratic leader. I know them both to be Senators of great honor and great ability. I am willing to rely on them to negotiate with the President of the United States and get us out of this. I hope it can be done.

#### DR. GEORGE MCINTYRE

Mr. LEAHY. Mr. President, I was born in Montpelier, VT. A great friend I had in Montpelier, VT was Dr. George A. McIntyre. Dr. McIntyre left this world this month at the age of 85. I can truly say Dr. McIntyre knew me all of my life because he was the man who delivered me as a child. He was a good friend, as is his wife, Theresa. He was also the model of the smalltown country doctor. He was someone who knew everybody in the town, respected by everybody in the town, loved by everybody in the town, and was there to help.

My own memories, I recall as a child of about 12, becoming very ill with pneumonia, and Dr. McIntyre coming to our house, a doctor who always made house calls, bundling me up and bringing me to the hospital. Without his care, there is no question I would not have survived that bout of pneumonia.

So I have been privileged, as have members of my family, to know him for all these years. I send my condolences to his wife, his children, and the

other members of his family. He was a truly remarkable person.

I ask unanimous consent that Dr. McIntyre's obituary which appeared in the Burlington Free Press be printed in the RECORD.

There being no objection, the obituary was ordered to be printed in the RECORD, as follows:

[From the Burlington Free Press, Dec. 16, 1995]

GEORGE A. MCINTYRE, M.D.

MONTPELIER.—George A. McIntyre, M.D., 85, of Loomis Street, and a longtime area practitioner, died Dec. 14, 1995, in Berlin Health and Rehabilitation Center of complications due to Parkinson's disease.

Born on May 3, 1910, in Burlington, he was the son of James C. McIntyre and Emma J. (Wakefield) McIntyre.

He received a bachelor of science degree from the University of Vermont and an M.D. from UVM in 1935. Following internship he opened a family practice in Montpelier.

On July 10, 1941, he married Theresa Wilkinson in Montpelier and to that marriage four children were born.

From Sept. 2, 1942, until Feb. 3, 1946, he actively served as a U.S. Army physician, principally in New Guinea and in the southern Philippines. His military specialty was that of chief of gastroenterology. His final rank promotion was that of major. Postgraduate education was obtained at New York Postgraduate Hospital, University of Chicago, Billings General Hospital, and St. Luke's Hospital, also in Chicago.

Dr. McIntyre was an attending physician at Heaton Hospital and its successor, Central Vermont Hospital, for a total of 46 years and a member of Washington County Medical Society, Vermont State Medical Society, and American Medical Association.

In addition to his regular practice, Dr. McIntyre was medical consultant to Kinstead on upper Main Street in Montpelier, a state-run institution; to New England Telephone and Telegraph Co., IBM, Agway, and the Selective Service. For several years, he was health officer for the City of Montpelier and was attending physician at Vermont College for 31 years, serving under the administration of four presidents and medical director of the former Heaton House.

On May 15, 1981, Dr. McIntyre was awarded a citation from the Vermont Medical Alumni Association, "in recognition of his many years of exemplary medical practice and outstanding community service which reflects credit upon the medical profession and epitomizes the ideal physician." He retired in November of that year.

Following retirement, he was director of the library at Central Vermont Hospital for almost five years, president of Washington County Cancer Society, newsletter editor of the Lake Mansfield Trout Club, and a member of the club, a Montpelier-based literary club. He also authored the history of Christ Church (Episcopal) in Montpelier.

Norwich University of Vermont conveyed recognition on Dr. McIntyre by conferring on him an honorary doctor of humanities degree during commencement exercises at Vermont College on May 22, 1988.

In a reading presented for inclusion in the Congressional Record by Sen. Patrick Leahy in March 1989, Leahy stated, "Dr. McIntyre has been my family's doctor for as long as I can remember. All the Leahys have come to depend on him for his patience, caring, and advice. I have literally known him all my life, as he is the physician who delivered me on March 31, 1940."

Survivors include his wife of 54 years, Theresa (Wilkinson), whom he married June 10, 1941, in Montpelier; three sons, James C. McIntyre of Montpelier, William A. McIntyre of Nashua, N.H., and John S. McIntyre of Barre; one daughter, Anne M. McIntyre of Melrose, Mass.; and two grandchildren, Matthew and Julia Anne McIntyre.

Services will be held Sunday at 2 p.m. in Christ Church (Episcopal). Spring burial service will take place in Lake View Cemetery in Burlington. Calling hours are scheduled today from 2 to 4 and 7 to 9 p.m. in Guare and Sons Funeral Home, 80 School St., Montpelier. The family requests that flowers be omitted. Memorial contributions may be made to Central Vermont Hospital, P.O. Box 547, Barre, Vt. 05641.

### THE BUDGET

Mr. DORGAN. Mr. President, I listened with interest at the discussion moments ago on the floor about the issue of the shutdown and the budget negotiations. I have been involved with Senator EXON on the Democratic side in those negotiations for a number of weeks. We have regrettably not solved the problem. We have not resolved a budget that represents a compromise on both sides. It is probably safe for everyone to say that we have, at the end of this year, a real mess here in Washington, DC, and in the Congress.

It is tempting to just blame, and it seems to me there are plenty of targets, but it seems to me what is causing this deadlock and this impasse is a circumstance where a large number of Members of Congress have come to town to say, "The way we negotiate is to say to you, 'It is our way or no way. You agree with us or we create deadlock. We won't accept compromise.'"

The Senator from Vermont talked about the press conference yesterday by some on the other side of the Capitol who said, "Let's lock the room. Let's have the President and the majority leader of the Senate and the Speaker of the House put in a room and lock the room and not have them come out until there is an agreement on a balanced budget."

The Senator from Vermont appropriately asked the question: Why would they not have asked themselves to remain here last week?

I stood on the floor of this Senate late last week when we were told that the other side had decided they were leaving at 2:30 in the afternoon, and late that afternoon I asked on the floor of the Senate, what about this shutdown? What about the 270,000 people who are prevented from going to work? What about the taxpayers who are told they are going to pay people who are prevented from doing their work?

What about the other half-million people who are working and not getting paid, working a full pay period and getting half a paycheck? That has not been discussed on the floor. I ask, what leverage does it give anyone to poke the eye of the taxpayer by saying to

the taxpayers of this country, "You are going to pay 270,000 people who are prevented from coming to work and dangling Federal workers out as pawns in this budget debate"? What possible leverage could anyone receive from this chaos and this mess? This is not leverage, this is foolishness, and it ought to end.

They say this is about principle. It is about balancing the budget in principle. I ask this question: What principle is involved in a proposal to balance the budget that says, "By the way, let us change the alternative minimum tax so that 2,000 corporations, the biggest corporations in America, each get a \$7 million tax cut from this little adjustment in something called the AMT? Two thousand companies, \$7 million each in a new tax break, to balance the budget?"

What principle is involved in changing something that no one understands called section 956(a) of the Tax Code, that says, "Let us make it easier, and let us provide a better incentive for people to close their manufacturing plants in America and move the jobs overseas"? What possible principle is involved in making that adjustment for those few recipients, the largest corporations in the country, to be rewarded in something that is called a balanced budget?

I also note the story today in the newspaper that says, "Furloughs Fail To Ground Overseas Trips by Congress." I think those who are responsible for shutting down the Government and who now plan to leave on a congressional foreign trip should think better of it. Some of their constituents might see their actions of shutting down the Government and then leaving the country as leaving the scene of an accident. We ought not be talking about foreign trips. We ought to be talking about getting this Government up and running and reaching a budget agreement.

The Republicans are right. I have said it before and I will say it this afternoon, the Republicans are right for pushing for a balanced budget. I compliment them for it. They have energy and strength to say we ought to balance the budget. They are right about that. We ought to do it in 7 years. They are right about that. The Democrats are right in saying let us do it the right way, by protecting the priorities in this country. Let us not pull the rug out from under Medicare. Let us make sure we invest in education. The Republicans are right and the Democrats are right. Let us take the best of what both have to offer, rather than get the worst of what each party has to offer this country.

My hope is that, by the end of today or tomorrow, working together, all of us, we will find a way to end this Government shutdown, put people back to work, develop a plan to balance the

Federal budget, do it in 7 years, and do it with the right priorities that still will make this a better country in the future and especially do it in a way that is sensitive to the needs of some of the most vulnerable people in our country.

The American people, it seems to me, at the end of 1995, deserve a government that offers some measure of confidence, not chaos. We find ourselves in this circumstance, at the end of this year, for a lot of reasons. This Congress did not pass its appropriations bills on time. It did not pass its reconciliation bill on time. It did not pass any appropriations bills on time. The fact is, we end the year in chaos.

We can, it seems to me, even by the end of this week—tomorrow, Saturday, Sunday, Monday—still make some measure of progress in doing the right thing. And the right thing would be to restore to those Federal workers the opportunity to come back to their jobs, to restore, for the taxpayers, some sense of confidence that we are doing the right thing, and to provide for this country a budget that is balanced—yes, in 7 years; and, yes, in the right way.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

#### AGREE ON A BUDGET

Mr. NICKLES. Mr. President, continuing with the remarks I made earlier to Senator DOLE, urging him to follow up on what he was talking about doing, going to the President and urging the President to sign at least three of these bills—I hope that happens. I have before me the Interior bill and the President's veto message, and there is no reason the President should veto this bill. He has vetoed it. It has caused a lot of dislocation. It has put a lot of people out of work, not only hurt the Federal employees, but it has also hurt a lot of constituents. They have not had the opportunity to visit parks and museums. I think that is really unfortunate, when I looked at the reason why he vetoed the bill.

So I urge the President to agree with Senator DOLE and Speaker GINGRICH and sign this bill—maybe making a couple of changes. We can make those changes. We can agree, if the two leaders, in meeting with the President, agree on a couple of changes, modifications. I know he wants a little more money for a couple of items in the bill. But by and large, I think it was vetoed for the wrong reason. This could be signed, thousands of people could go back to work, and our constituents would have access to parks and museums all across the country. So I hope that happens.

The other couple of bills that the President could sign and hopefully will sign soon, Commerce, State, Justice,

and VA/HUD—again, let us agree to make whatever compromises are necessary, compromises in a couple of areas. The differences are not that great. But the bill should be signed. Those employees should go back to work and constituents, veterans and others, could receive the services they expect and are entitled to.

But the most important thing that needs to really happen is that we need to come to a resolution and agree on a budget. My friend and colleague from North Dakota said it has been months and we have been behind on reconciliation, it has taken too long—though Congress has tried to do a lot of things. It tried to reform welfare. Unfortunately, the President vetoed that package. It tried to balance the budget. We have never done that before. I have been here 15 years, we have never passed a balanced budget. We have never curtailed the growth of entitlement programs. We are trying to do that now.

Unfortunately, we have not had any real support or help from the White House, from the administration. Yes, it is a congressional initiative, and it is easier said than done, but most of the time, Congress and politicians make rhetoric, saying we want to balance the budget, but they do not follow through. Congress, now, is very intent, very sincere, very earnest in saying we want to balance the budget and we want to do it with real numbers.

We thought, 6 weeks ago, President Clinton had agreed and made that commitment that he would do so as well. In the last 6 weeks since the November 15 agreement to have the CBO budget in 7 years, the President has yet to submit one. I compliment my colleagues on both sides of the aisle who have signed on to a budget that is balanced using real, honest numbers. At least a dozen Democrats have signed on. So we, at least, have a package. You can work and negotiate because you are both dealing with the same numbers. They go to a goal of a balanced budget.

Unfortunately, President Clinton has not. Maybe today he will. But the press reports are that he still refuses to submit a balanced budget, so we will have a budget that we can compare. Maybe he is just going to throw rocks at the budget we have. Maybe he is going to throw rocks at the budget the Democrats have. I do not know. But I am hopeful. I want to be optimistic. I think it is awfully important for the future of this country, for the future generations, that we do start, begin to live within our means.

So I urge the President to work with Majority Leader DOLE and Speaker GINGRICH today, work to find an agreeable compromise to where no one individual or party is a winner but the American people will be winners; so the White House can claim victory, the Congress can claim victory, but the

real victors, the real winners in this entire process will be the American people and future generations. That would be something worth fighting for. It would be something worth working for. That would be a victory, I think, that all people could claim some credit for.

I hope that will happen. I do think it is possible. It is possible if the President wants to make it happen. Hopefully he will.

Mr. President, I yield the floor.

#### RECESS SUBJECT TO THE CALL OF THE CHAIR

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess subject to the call of the Chair.

Thereupon, at 12:38 p.m., the Senate recessed subject to the call of the Chair.

The Senate reassembled at 7:51 p.m., when called to order by the Presiding Officer (Mr. NICKLES).

#### MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### REPORT ON SERBIA AND MONTENEGRO—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT OF THE SENATE—PM 104

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate on December 27, 1995, received a message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Section 1511 of the National Defense Authorization Act for Fiscal Year 1994

(hereinafter the "Act"), requires that the sanctions imposed on Serbia and Montenegro, as described in that section, shall remain in effect until changed by law. Section 1511(e) of the Act authorizes the President to waive or modify the application of such sanctions upon certification to the Congress that the President has determined that the waiver or modification is necessary to achieve a negotiated settlement of the conflict in Bosnia-Herzegovina that is acceptable to the parties.

In accordance with this provision, I have issued the attached Presidential Determination stating that the suspension of the sanctions described in section 1511(a)(1-5) and (7-8) and in conformity with the provisions of United Nations Security Council Resolutions 1021 and 1022 is necessary to achieve a negotiated settlement of the conflict. As described in the attached Memorandum of Justification, this sanctions relief was an essential factor motivating Serbia and Montenegro's acceptance of the General Framework Agreement for Peace in Bosnia and Herzegovina initiated in Dayton, Ohio, on November 21, 1995 (hereinafter the "Peace Agreement").

I have directed the Secretaries of the Treasury and Transportation to suspend immediately the application of these sanctions on Serbia and Montenegro and have authorized the Secretary of State to suspend the arms embargo at appropriate stages consistent with United Nations Security Council Resolution 1021. The first stage would be 91 days after the United Nations Secretary General reports to the United Nations Security Council that all parties have formally signed the Peace Agreement.

The measures taken to suspend these sanctions may be revoked if the Implementation Force (IFOR) commander or High Representative determines that Serbia and Montenegro or the Bosnian Serbs are not meeting their obligations under the Peace Agreement.

WILLIAM J. CLINTON.

THE WHITE HOUSE, December 27, 1995.

#### REPORT ON PROGRESS CONCERNING EMIGRATION LAWS AND POLICIES OF THE RUSSIAN FEDERATION—MESSAGE FROM THE PRESIDENT—PM 105

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

*To the Congress of the United States:*

On September 21, 1994, I determined and reported to the Congress that the Russian Federation is in full compliance with the freedom of emigration criteria of sections 402 and 409 of the

Trade Act of 1974. This action allowed for the continuation of most-favored-nation (MFN) status for Russia and certain other activities without the requirement of an annual waiver.

As required by law, I am submitting an updated report to the Congress concerning the emigration laws and policies of the Russian Federation. You will find that the report indicates continued Russian compliance with the United States and international standards in the area of emigration.

WILLIAM J. CLINTON.

THE WHITE HOUSE, December 29, 1995.

#### MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT

##### ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate, on December 27, 1995, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

H.R. 4. An act to restore the American family, reduce illegitimacy, control welfare spending and reduce welfare dependence.

H.R. 394. An act to amend title 4 of the United States Code to limit State taxation of certain pension income.

H.R. 1878. An act to extend for 4 years the period of applicability of enrollment mix requirement to certain health maintenance organizations providing services under Dayton Area Health Plan.

H.R. 2627. An act to require the Secretary of the Treasury to mint coins in commemoration of the sesquicentennial of the founding of the Smithsonian Institution.

The enrolled bills were signed subsequently by the Acting President pro tempore (Mr. KEMPTHORNE).

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1749. A communication from the Lieutenant General of the Defense Security Assistance Agency, transmitting, pursuant to law, the annual on the operation of the Special Defense Acquisition Fund for fiscal year 1995.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MCCONNELL (for himself, Mr. MOYNIHAN, Mr. D'AMATO, and Mr. LEAHY):

S. 1511. A bill to impose sanctions on Burma; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LUGAR (for himself and Mr. COATS):

S. 1512. A bill to amend title 23, United States Code, to improve safety at public railway-highway crossings, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HATCH:

S. 1513. A bill to amend the Trademark Act of 1946 to make certain revisions relating to the protection of famous marks; to the Committee on the Judiciary.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LEAHY (for Mr. DASCHLE):

S. Res. 206. A resolution making minority party appointments for the Committee on Veterans' Affairs; considered and agreed to.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCONNELL (for himself, Mr. MOYNIHAN, Mr. D'AMATO, and Mr. LEAHY):

S. 1511. A bill to impose sanctions on Burma; to the Committee on Banking, Housing, and Urban Affairs.

THE BURMA FREEDOM AND DEMOCRACY ACT OF 1995

Mr. MCCONNELL. Mr. President, I rise today with Senators MOYNIHAN, D'AMATO, and LEAHY to introduce the Burma Freedom and Democracy Act of 1995.

Early in December, prospects for democracy in Burma took a turn for the worse. In a remarkable act of courage, Aung San Suu Kyi and her colleagues in the National League for Democracy decided not to participate in the National Convention orchestrated by the State Law and Order Restoration Council. In announcing her decision she said, "A country which is drawing up a constitution that will decide the future of the state should have the confidence of the people." This is a standard that SLORC cannot meet.

Burma is not one step closer to democracy today than it was in the immediate aftermath of the crackdown in 1988. Indeed, in Aung San Suu Kyi's own words, "I have been released, that is all."

In fact, the situation continues to deteriorate. A recent report filed by the U.N. Special Rapporteur on Burma, Dr. Yokota, is a fresh, sharp reminder of the level of despair and the brutality suffered by the people of Burma at the hands of SLORC.

In lengthy remarks on December 8, I reviewed for my colleagues in detail the Yokota report. Let me take a moment to briefly review its most recent conclusions.

Virtually no improvements have occurred since the spring report of the Special Rapporteur. Dr. Yokota reported that the National Convention "is not heading towards restoration of democracy" and criticized SLORC for

not affording him the opportunity to meet with convention participants free from SLORC supervision.

But, those criticisms were mild compared to his determinations with regard to human rights and the quality of life for the average Burmese citizen.

A complex array of security laws are used to harass, intimidate, and afford SLORC soldiers sweeping powers of arrest and detention. He charged the military with carrying out arbitrary killings, rape, torture, forced portage, forced labor, forced relocations, and confiscation of private property. He substantiated many refugee claims that this pattern of abuse continues most frequently "in border areas where the Army is engaged military operations or where regional development projects are taking place." He added, "many of the victims of such atrocious acts belong to ethnic national populations, especially women, peasants, daily wage earners and other peaceful civilians who do not have enough money to avoid mistreatment by bribing."

If anyone had any doubts about the ruthless nature of the SLORC regime, I encourage them to take a few minutes to read this report.

SLORC has now turned its attention to the rising influence of Suu Kyi and her supporters. SLORC has cynically used the fact of her release to attempt to demonstrate they are relaxing their grip on power. Unfortunately, it is a sadistic charade.

Although Suu Kyi has repeatedly called for a dialog to reconcile the nation, SLORC has rejected every attempt to include her or the NLD in a credible political process. Last week Suu Kyi was personally attacked in the official newspapers as a "traitor" who should be "annihilated." When the NLD announced they would not participate in the National Convention, senior officials woke up to find their homes surrounded by soldiers and their movements shadowed by military thugs.

In response to this assault on democracy and democratic activities, members of the business community have made two arguments. First, the allegations are exaggerations of the conditions. And, second, trade, investment, and economic improvements will yield political progress just as it has in China and Vietnam.

Mr. President, I urge the business community to read Dr. Yokota's recent report and then consider an important difference in Burma. In 1990 elections were held and the nation spoke with a strong voice. Suu Kyi's National League for Democracy swept the elections only to find the results brutally rejected by SLORC. We cannot pretend those elections did not occur. We cannot turn our back on the legitimate Government of Burma. We should not trade democracy for dollars in the

pockets of a few companies interested in investing in Burma.

Suu Kyi has been absolutely clear. She will welcome foreign investment in her country just as soon as it makes real progress toward democracy.

The United States must take the lead in supporting not only her courage but her objective which is nothing short of Burma's liberty. It is clear U.N. Ambassador Albright understands the importance of our role and the responsibilities of United States leadership in securing democracy for Burma. In responding to the U.N. Rapporteur's report and the subsequent General Assembly resolution she spelled out the alternatives for SLORC: They must—there must be prompt and meaningful progress in political reforms including a transition to an elected Government or Burma will face further international isolation.

Mr. President, I agree with the Ambassador's conclusions. However, it is a position that the administration has expressed for more than a year. My definition of prompt differs from the administration's timetable. SLORC has had ample time and opportunity to demonstrate their intent to in effect return to the barracks and leave the governing of the country to democratically elected civilians. Burma waited for decades to vote for the National League for Democracy. They have waited for the past five years to benefit from the results of that election. Burma has waited for its freedom long enough.

In past statements of Burma I have devoted a good deal of my remarks to why a country so far away should matter to anyone here in the United States. It is not just a matter of upholding the principles of democracy and free markets—principles that define our history and national conscience. But, for many, those are ideals that are difficult to transplant—it is difficult to see why we should apply sanctions to further that cause.

The reason it is in our direct interest to secure democracy in Burma relates to the surge in narcotics trafficking afflicting every community in this Nation. Burma is the source of more than 60 percent of the heroin coming into the United States. As the Assistant Secretary of State for Asian Affairs has testified, until there is a democratically elected government in Rangoon, committed to a similar set of values, we will not see the active cooperation necessary to bring a real halt to this problem. We may see episodic efforts designed—like Suu Kyi's release—to influence our perceptions of SLORC's intentions. But, we will not see a serious effort to eradicate opium production unless we can work with a government dedicated to our common agenda.

The credibility of a counternarcotics program directly relates to the credibility of the government.

Let me conclude by thanking Senators MOYNIHAN, LEAHY, and D'AMATO for joining me in this legislation. I appreciate my colleague on the Subcommittee on Foreign Operations joining me in this important effort. I understand the Parliamentarian has decided that this will be referred to the Banking Committee, so I am grateful for the cosponsorship of the chairman, Senator D'AMATO.

But, I want to take a moment to single out Senator MOYNIHAN and his long standing commitment to Suu Kyi's safe return to public life. When we were members of the Senate Foreign Relations Committee in 1992 Senator MOYNIHAN and I worked together to establish conditions which must be met prior to our dispatching a U.S. Ambassador to Burma. Then as now, he has been articulate champion for a noble cause.

• Mr. MOYNIHAN. Mr. President, the Senator from Kentucky and I join together to propose a modest measure in response to a continued pattern of egregious abuses of power by the Burmese military junta, the State Law and Order Restoration Council [SLORC]. The members of SLORC have worked to thwart democracy at every turn. They continue to be implicated in drug trafficking, and they continue to abuse the people of Burma in a manner that can only be characterized as inhuman.

This bill makes clear our intention that such a regime will no longer enjoy investments from the United States. Investments which so often supported—knowingly or unknowingly—its totalitarian and abusive rule. The bill also codifies our intention to withhold our support for loans to Burma from international financial institutions, to prevent direct assistance to the SLORC, and to exclude the members of SLORC from the United States.

In 1988 the Burmese people took to the streets of Rangoon, to demand democracy for their country. Sadly, government forces turned peaceful protests into violent tragedy. In September of that year, thousands of unarmed demonstrators were killed by government troops.

Since then, the SLORC has earned its reputation as one of the worst violators of human rights in the world. The Department of State and numerous human rights organizations document this. The SLORC maintains power through violence and intimidation. In effect, the military junta has waged war against its own people. But the will of the Burmese people cannot be squelched. As they continue their fight for democracy, support from the international community remains steadfast.

The SLORC came to power through violence, but it must have cynically imagined that a rigged election would be the answer to its untenable political situation, and one was scheduled for

May 1990. The National League for Democracy (NLD) party, led by Aung San Suu Kyi, won that election while she was under house arrest. Yet the SLORC has never allowed the elected leaders of Burma to take office. Instead it has forced these leaders to flee their country to escape arrest and death.

The U.S. Senate has spoken often in support of those brave Burmese democracy leaders. We have withheld aid and weapons to the military regime, and have provided some—albeit modest amounts—of assistance to the Burmese refugees who have fled the ruthless SLORC. Pro-democracy demonstrators were particularly vulnerable, yet having fled the country they found themselves denied political asylum by Western governments. In 1989, Senator KENNEDY and I rose in support of the demonstrators and won passage of an amendment to the Immigration Act of 1990 requiring the Secretary of State and the Attorney General to define clearly the immigration policy of the United States toward Burmese pro-democracy demonstrators. Congress acted again on the Customs and Trade Act of 1990 to adopt a provision I introduced requiring the President to impose appropriate economic sanctions on Burma. The Bush administration utilized this provision to sanction Burmese textiles. Unfortunately, these powers have never been exercised by the current administration.

The Senate continued to press for stronger actions. On March 12, 1992, the Foreign Relations Committee unanimously voted to adopt a report which Senator MCCONNELL and I submitted detailing specific actions that should be taken before the nomination of a United States Ambassador to Burma would be considered by the Senate.

Last year, the State Department authorization act for 1994–1995 contained a provision I introduced placing Burma on the list of international outlaw states such as Libya, North Korea, and Iraq. Let us be clear: The U.S. Congress considers the SLORC regime to be one of the very worst in the world. The Senate also unanimously adopted S. 234 on July 15, 1994, calling for the release of Aung San Suu Kyi and for increased international pressure on the SLORC to achieve the transfer of power to the winners of the 1990 Democratic election.

After 6 years of unjust detention by the Burmese military, Nobel Peace Prize Laureate Aung San Suu Kyi was released on July 10, 1995. While this was cause for celebration and great relief for those of us who have long called for her release, one cannot fail to stress that there is also great outrage that she was incarcerated in the first instance.

The struggle in Burma is not over. The SLORC continues to wage war against its own people. Illegal heroin continues to be produced with the jun-

ta's complicity. And the SLORC continues to thwart the transfer to democracy in Burma. The New York Times writes appropriately in an editorial:

The end of Ms. Aung San Suu Kyi's detention must be followed by other steps toward democracy before Myanmar is deemed eligible for loans from multilateral institutions or closer ties with the United States. It is too soon to welcome Yangon back into the democratic community.

Too soon indeed.●

By Mr. LUGAR (for himself and Mr. COATS):

S. 1512. A bill to amend title 23, United States Code, to improve safety at public railway-highway crossings, and for other purposes; to the Committee on Environment and Public Works.

THE HIGHWAY RAIL GRADE CROSSING SAFETY FORMULA ENHANCEMENT ACT OF 1995

● Mr. LUGAR. Mr. President, today I am introducing the Highway Rail Grade Crossing Safety Formula Enhancement Act. This important legislation will provide a more effective method of targeting available Federal funds to enhance safety at our Nation's most dangerous highway rail grade crossings.

In America today, several hundred people are killed and thousands more injured every year as a result of vehicle-train collisions at highway rail grade crossings. A significant number of these accidents occur in rail-intensive States such as Indiana, Illinois, Ohio, California, and Texas. One quarter of the Nation's 168,000 public highway rail grade crossings are located in these five States. They accounted for 38 percent of deaths and 32 percent of injuries caused by vehicle-train collisions nationwide during 1991–93.

My home State of Indiana ranks sixth in the Nation for number of total grade crossings with 6,788, third in the Nation for grade crossing accidents with 263, and fifth for fatalities with 27. Last year, I traveled across northern Indiana aboard a QSX-500 locomotive and witnessed what engineers see every day—motorists darting across the railroad tracks before an oncoming train. From this experience, and from my work to improve safety at highway-rail grade crossings, I learned that engineering solutions, along with education and awareness about grade crossing safety are key strategies that can effectively prevent grade crossing accidents.

Responding to this disturbing national trend, I began working with Transportation Secretary Federico Peña and with the Indiana Department of Transportation to address this serious safety problem. We worked to find solutions that would help Indiana and other States make better use of available funds to target the Nation's most dangerous rail crossings.

The Federal Government has played an important role in helping States reduce accidents and fatalities at public

rail-highway intersections since passage of the Highway Safety Act by Congress in 1973. This act created the Rail-Highway Crossing Program—also known as the section 130 program. Since the program's inception, more than 28,000 improvement projects have been undertaken—from installation of warning gates, lights, and bells, to pavement improvements and grade separation construction projects.

During the 103d Congress, I introduced grade crossing safety legislation to restore States' discretion over millions of Federal highway dollars lost as a result of noncompliance with the Federal motorcycle helmet law. Indiana and other States affected by this law were prohibited from using a portion of their highway construction dollars to improve safety at highway rail grade crossings. While the Senate did not approve this legislation during the 103d Congress, I am pleased the Congress repealed the helmet law penalty this year as part of the National Highway System Designation legislation. Repeal of this Federal sanction allows States greater flexibility to use their Federal highway dollars for improvements at rail crossings, and for other transportation priorities.

In March, 1994, Senator COATS and I asked the General Accounting Office to conduct a survey of rail safety programs in Indiana and other rail intensive States experiencing a high number of accidents at highway-rail grade crossings. Released this summer, the report—"Railroad Safety: Status of Efforts to Improve Railroad Crossing Safety"—evaluated the best uses of limited Federal funds for rail crossing safety, reviewed policy changes that help State and local governments address rail safety issues, and recommended strategies to encourage interagency and intergovernmental cooperation.

The report found that in addition to States' efforts to reduce accidents and fatalities through emphasis on education programs and engineering solutions, changes to the funding formulas to apportion highway funds among States would target Federal funds to areas of greatest risk.

Under the Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA], the section 130 program was continued as part of the Surface Transportation Program [STP]. Under ISTEA, 10 percent of a State's apportioned STP funds are allocated to States for highway rail crossing improvement and hazard elimination projects.

The GAO reported that key indicators of risk factors used to assess rail grade crossing safety in a State are not considered during the apportionment process. The GAO outlined the Federal Highway Administration's ongoing efforts to review options for STP formula changes that will adjust the current

flat percentage allocation from a State's apportioned amount to account for these risk factors. Applying these factors to the funding formula creates a more targeted and focused process that maximizes the effectiveness of Federal funds.

The risk factors criteria considered includes a State's share of the national total for number of public crossings, number of public crossings with passive warning devices, total number of accidents and total number of fatalities occurring as a result of vehicle-train collisions at highways rail grade crossings.

For example, while Indiana received 3.4 percent of section 130 funds in fiscal year 1995, the Hoosier State experienced 6.1 percent of the Nation's accidents and 5.9 percent of the fatalities as a result of vehicle-train collisions from 1991-93. In addition, Indiana has 4 percent of the Nation's public rail crossings: 6,788.

Preliminary estimates of STP apportionments under this legislation indicate Indiana's share of section 130 funds could increase by 33 percent, from the fiscal year 1995 level of \$4.9 million to \$6.6 million. Overall, about 24 States would receive an increase in section 130 funds for grade crossing improvements.

The GAO cited similar statistical comparisons for Illinois, Ohio, and Texas.

While the Indiana Department of transportation [INDOT] spent more than \$10 million last year on improvements to highway rail grade crossings, a one-third increase in section 130 funds would allow INDOT and other State departments of transportation additional flexibility and resources to improve safety at dangerous rail crossings.

The Formula Enhancement Act addresses the allocation problem by adjusting the funding formula for the STP to include a 5-percent apportionment of funds to States for the section 130 program based on a 3-year average of these risk factors. The FHWA has been helpful in preparing this legislation, and I want to express my appreciation to them for their assistance.

This legislation will help improve the way the Federal Government targets existing resources to enhance safety on our Nation's highways and along our rail corridors. This legislation does not call for new Federal spending, but rather for a more equitable and effective distribution of existing highway funds to States to enhance safety at dangerous highway rail grade crossings.

I am introducing this measure today anticipating congressional consideration next year of a reauthorization bill to succeed the ISTEA which expires after fiscal year 1997. With the many changes occurring in the 104th Congress, it is unclear what direction the next highway authorization bill

will take or what the Federal role will be in maintaining the national transportation infrastructure. I wanted to share with my colleagues my interest in ensuring that highway rail grade crossing safety will be a part of these deliberations. I am hopeful highway rail grade crossing safety improvement efforts will continue in rail intensive States and in other States where accidents and fatalities continue to occur as a result of vehicle-train collisions.

I am hopeful this legislation will reinforce the importance of highway rail grade crossing safety issues as the Congress moves forward with the national discussion of U.S. transportation policy for the 21st century. I believe continued emphasis on finding new and better ways to maximize existing resources that enhance safety at highway rail grade crossings will contribute to the overall effort in Congress and in the States to prevent accidents, save lives and sustain a balanced and effective transportation network for the Nation.●

● Mr. COATS. Mr. President, the bill which Senator LUGAR and I are introducing today will help correct a critical deficiency and help prevent senseless, tragic accidents at rail grade crossings.

Indiana is one State which suffers from high numbers of accidents and deaths at railroad crossings. Rail transportation is important in Indiana, playing a key role in the State's agriculture and manufacturing economy. Much of the rail activity goes through northwest Indiana which accounts for 75 percent of the State's rail crossing accidents. In 1994, Indiana ranked third in the Nation with 263 rail crossing accidents, resulting in the deaths of 27 people; 6.1 percent of all rail crossing accidents in America took place in Indiana and 5.9 percent of the fatalities occurred there.

As Senator LUGAR and I became aware that Indiana had a critical problem with rail accidents, we asked the General Accounting Office [GAO] to examine the safety conditions in States with a high concentration of rail crossings. When the GAO report was completed in August 1995, it revealed that although Indiana had a large number of rail crossings—6,700, the sixth largest number of all States—the State received only 3.4 percent of the Federal funding available specifically targeted to prevent such tragedies.

The section 130 program was established in 1973 to help States reduce accidents, injuries, and fatalities at public railroad crossings. In the first 10 years of the program, accidents declined by 61 percent and deaths were reduced by 34 percent. Since 1985, however, there has been little progress made toward further reducing these numbers.

The problem becomes apparent when you realize that many of the States

with the highest concentration of crossings, number of accidents, and fatalities receive less money than States which do not have as great a need. Thus, the GAO concluded that the Federal Government should examine funding formulas and consider using risk factors in determining how to distribute section 130 highway dollars to States for rail safety purposes.

The current formula funding—based on 10 percent of a State's surface transportation program [STP] funding—does not take into account such essential criteria as a State's total number of crossings, amount of train traffic, as well as the number of accidents and fatalities. I believe it is critical that these elements—risk factors—be considered in determining how much money a State should receive for rail safety.

The formula enhancement bill corrects this flaw in the current funding formula. Based on the GAO report and working with the Federal Highway Administration, we have crafted legislation which changes the formula in way to ensure that States with the greatest risk receive more funding. This bill does not increase Federal spending in any way. Rather it ensures that current spending on rail safety under section 130 is done more effectively. Specifically, it sets aside 5 percent of the total apportionment for surface transportation program funding and directs it to the States based on the total number of accidents, total number of fatalities, number of public railway highway crossings, and number of passive warning devices.

Under this new formula, Indiana—which received \$4.9 million in 1995—could receive \$6.6 million. Overall, 24 States would benefit from increased funding to help reduce rail crossing accidents.

It is our goal to work with the Committee on Environment and Public Works to help ensure that this formula change is considered as part of Intermodal Surface Transportation Efficiency Act reauthorization when it occurs either next year or in 1997.

Money alone will not solve all the problems related to rail crossing accidents. I support greater education programs such as Operation Lifesaver. Continued cooperation among all levels of government: local, State, and Federal is essential to stop these sort of tragedies. However, we should also ensure that a Federal program which was designed to help States with safety issues at rail crossings is targeted in a way which ensures the most effective use of these resources.

It is time for us to direct this program where it has the best hope of making an impact and thus reduce the senseless accidents and tragic deaths at rail crossings.●

By Mr. HATCH:

S. 1513. A bill to amend the Trademark Act of 1946 to make certain revisions relating to the protection of famous marks; to the Committee on the Judiciary.

#### THE FEDERAL TRADEMARK DILUTION ACT

Mr. HATCH. Mr. President, I am very pleased to introduce today the Federal Trademark Dilution Act of 1995.

Mr. President, this bill is designed to protect famous trademarks from subsequent uses that blur the distinctiveness of the mark or tarnish or disparage it, even in the absence of a likelihood of confusion. Thus, for example, the use of DuPont shoes, Buick aspirin, and Kodak pianos would be actionable under this bill.

The concept of dilution dates as far back as 1927, when the Harvard Law Review published an article by Frank I. Schecter in which it was argued that coined or unique trademarks should be protected from the "gradual whittling away of dispersion of the identity and hold upon the public mind" of the mark by its use on noncompeting goods. Today, 25 States have laws that prohibit trademark dilution.

A Federal dilution statute is necessary, Mr. President, because famous marks ordinarily are used on a nationwide basis and dilution protection is only available on a patchwork system of protection. Further, some courts are reluctant to grant nationwide injunctions for violation of State law where half of the States have no dilution law. Protection for famous marks should not depend on whether the forum where suit is filed has a dilution statute. This simply encourages forum-shopping and increases the amount of litigation.

Moreover, Mr. President, the GATT agreement includes a provision designed to provide dilution protection to famous marks. Thus, enactment of this bill will be consistent with the terms of the agreement, as well as the Paris Convention, of which the United States is also a member. Passage of a Federal dilution statute, Mr. President, would also assist the executive branch in its bilateral and multilateral negotiations with other countries to secure greater protection for the famous marks owned by U.S. companies. Foreign countries are reluctant to change their laws to protect famous U.S. marks if the United States does not afford special protection for such marks.

Mr. President, as many Members will recall, a Federal dilution statute was proposed as part of the comprehensive trademark reform package that was enacted into law in November 1988, and took effect 1 year later. The comprehensive bill initially passed by the Senate included the dilution provision. However, the dilution proposal was deleted from the bill prior to final congressional passage. The current proposal, I believe, eliminates any concerns previously voiced in congress-

sional hearings regarding the former Federal dilution provision.

Mr. President, the bill I am introducing today is the product of years of consideration and the study by Congress and various experts in this field, including the International Trademark Association, formerly the United States Trademark Association. It would amend section 43 of the Trademark Act to add a new subsection (c) to provide protection against another's commercial use of a famous mark which results in the dilution of such mark. The bill defines the term "dilution" to mean "the lessening of the capacity of registrant's mark to identify and distinguish goods and services regardless of the presence or absence of (a) competition between the parties, or (b) likelihood of confusion, mistake, or deception."

The proposal adequately addresses legitimate first amendment concerns espoused by the broadcasting industry and the media. The bill will not prohibit or threaten noncommercial expression, such as parody, satire, editorial and other forms of expression that are not a part of a commercial transaction. The bill includes specific language exempting from liability the "fair use" of a mark in the context of comparative commercial advertising or promotion.

The legislation sets forth a number of specific criteria in determining whether a mark has acquired the level of distinctiveness to be considered famous. These criteria include: First, the degree of inherent or acquired distinctiveness of the mark; second, the duration and extent of the use of the mark; and third, the geographical extent of the trading area in which the mark is used.

With respect to remedies, the bill limits the relief a court could award to an injunction unless the wrongdoer willfully intended to trade on the registrant's reputation or to cause dilution, in which case other remedies under the Trademark Act become available. The ownership of a valid Federal registration would act as a complete bar to a dilution action brought under State law.

Mr. President, the Judiciary Committee, which I chair, looks forward to working with all interested parties to secure enactment of a Federal dilution statute that adequately meets the needs of trademark owners and is consistent with the public interest.

I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1513

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Trademark Dilution Act of 1995".

#### SEC. 2. REFERENCE TO THE TRADEMARK ACT OF 1946.

For purposes of this Act, the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 and following), shall be referred to as the "Trademark Act of 1946".

#### SEC. 3. REMEDIES FOR DILUTION OF FAMOUS MARKS.

(A) REMEDIES.—Section 43 of the Trademark Act of 1946 (15 U.S.C. 1125) is amended by adding at the end the following new subsection:

"(c)(1) The owner of a famous mark shall be entitled, subject to the principles of equity and upon such terms as the court deems reasonable, to an injunction against another person's commercial use in commerce of a mark or trade name, if such use begins after the mark becomes famous and causes dilution of the distinctive quality of the famous mark, and to obtain such other relief as is provided in this subsection. In determining whether a mark is distinctive and famous, a court may consider factors such as, but not limited to—

"(A) the degree of inherent or acquired distinctiveness of the mark;

"(B) the duration and extent of use of the mark in connection with the goods or services with which the mark is used;

"(C) the duration and extent of advertising and publicity of the mark;

"(D) the geographical extent of the trading area in which the mark is used;

"(E) the channels of trade for the goods or services with which the mark is used;

"(F) the degree of recognition of the mark in the trading areas and channels of trade of the mark's owner and the person against whom the injunction is sought;

"(G) the nature and extent of use of the same or similar marks by third parties; and

"(H) the existence of a registration under the Act of March 3, 1881, or the Act of February 20, 1905, or on the principal register.

"(2) In an action brought under this subsection, the owner of a famous mark shall be entitled only to injunctive relief unless the person against whom the injunction is sought willfully intended to trade on the owner's reputation or to cause dilution of the famous mark. If such willful intent is proven, the owner of a famous mark shall also be entitled to the remedies set forth in sections 35(a) and 36, subject to the discretion of the court and the principles of equity.

"(3) The ownership by a person of a valid registration under the Act of March 3, 1881, or the Act of February 20, 1905, or on the principal register shall be a complete bar to an action against that person, with respect to that mark, that is brought by another person under the common law or statute of a State and that seeks to prevent dilution of the distinctiveness of a mark, label, or form of advertisement.

"(4) The following shall not be actionable under this section:

"(A) Fair use of a famous mark by another person in comparative commercial advertising or promotion to identify the competing goods or services of the owner of the famous mark.

"(B) Noncommercial use of a mark.

"(C) All forms of news reporting and news commentary."

(b) CONFORMING AMENDMENT.—The heading for title VIII of the Trademark Act of 1946 is amended by striking "AND FALSE DESCRIPTIONS" and inserting "FALSE DESCRIPTIONS, AND DILUTION".

**SEC. 4. DEFINITION.**

Section 45 of the Trademark Act of 1946 (15 U.S.C. 1127) is amended by inserting after the paragraph defining when a mark shall be deemed to be "abandoned" the following:

"The term 'dilution' means the lessening of the capacity of a famous mark to identify and distinguish goods or services, regardless of the presence or absence of—

"(1) competition between the owner of the famous mark and other parties, or

"(2) likelihood of confusion, mistake, or deception."

**SEC. 5. EFFECTIVE DATE.**

This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

**SECTION-BY-SECTION ANALYSIS OF THE  
FEDERAL TRADEMARK DILUTION ACT OF 1995**

Section 1. Section one of the bill provides the short title of the bill, the "Federal Trademark Dilution Act of 1995."

Section 2. Section 2 of the bill clarifies the references in the bill to the "Trademark Act of 1946," giving the full title of the law and statutory citations.

Section 3. Section 3 of the bill would create a new Section 43(c) of the Lanham Act to provide a cause of action for dilution of "famous" marks. A new Section 43(c)(1) would provide protection to the owners of famous marks against another person's commercial use in commerce of the mark which dilutes the distinctive quality of the mark. The section would provide protection to famous marks, whether or not the mark is the subject of a federal trademark registration.

Section 3 identifies a list of nonexclusive factors that a court may consider in determining whether a mark qualifies for protection. These factors include: (1) the degree of distinctiveness of the mark; (2) the duration and extent of use of the mark; (3) the geographical extent of the trading area in which the mark is used; and (4) whether the mark is federally registered.

With respect to relief, a new Section 43(c)(2) of the Lanham Act would provide that, normally, the owner of a famous mark will only be entitled to an injunction upon a finding of liability. An award of damages, including the possibility of treble damages, may be awarded upon a finding that the defendant willfully intended to trade on the trademark owner's reputation or to cause dilution of the famous mark.

Under section 3 of the bill, a new Section 43(c)(3) of the Lanham Act would provide that ownership of a valid federal trademark registration is a complete bar to an action brought against the registrant under state dilution law. In this regard, it is important to note that the proposed federal dilution statute would not preempt state dilution laws.

A new Section 43(c)(4) sets forth various activities that would not be actionable. These activities include the use of a famous mark for purposes of comparative advertising, the noncommercial use of a famous mark, and the use of a famous mark in the context of news reporting and news commentary. This section is consistent with existing case law. The cases recognize that the use of marks in certain forms of artistic and expressive speech is protected by the First Amendment.

Section 4. Section 4 of the bill defines the term "dilution" to mean the lessening of the capacity of a famous mark to identify and distinguish goods or services, regardless of the presence or absence of (1) competition between the owner of the famous mark and

other parties, or (2) likelihood of confusion, mistake, or deception. The definition is designed to encompass all forms of dilution recognized by the courts, including disparagement. In an effort to clarify the law on the subject, the definition also recognizes that a cause of action for dilution may exist whether or not the parties market the same or related goods and whether or not likelihood of confusion exists.

Section 5. Section 5 of the bill makes the legislation effective upon enactment.

**SENATE RESOLUTION 206—MAKING  
MINORITY PARTY APPOINTMENTS**

Mr. LEAHY (for Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 206

*Resolved*, That the following shall constitute the minority party's membership on the Committee on Veterans' Affairs for the second session of the 104th Congress, or until their successors are appointed: Mr. Rockefeller, Mr. Graham, Mr. Akaka, Mr. Wellstone, and Mrs. Murray.

**ADDITIONAL STATEMENTS**

**TEXAS' STATEHOOD  
SESQUICENTENNIAL**

• Mr. GRAMM. Mr. President, I am honored today to recognize a momentous occasion in the history of the great State which I have the privilege to represent, the proud Lone Star State of Texas. This month we recognize and celebrate Texas' statehood sesquicentennial, 150 years during which we have been blessed and have prospered.

The spirit of Texas has been evident since our earliest days, when we were conceived in the eternal struggle for freedom. The men and women of Texas have an innate and inherent commitment to God and country, and even our flag displays a single star—our people have always looked to the Heavens.

No utterance in our State's history better represents the spirit, virtue, and values of Texas, then or now, than the remarkable letter written on February 24, 1836, by William Barret Travis at the Alamo:

To the People of Texas and all Americans in the world—

Fellow citizens and compatriots—

I am besieged, by a thousand or more of the Mexicans under Santa Anna—I have sustained a continual Bombardment and cannonade for 24 hours and have not lost a man—The enemy has demanded a surrender at discretion; otherwise, the garrison are to be put to the sword, if the fort is taken—I have answered the demands with a cannon shot, and our flag still waves proudly from the wall—I shall never surrender or retreat. Then, I call on you in the name of Liberty, or patriotism and of everything dear to the American character, to come to our aid, with all dispatch—The enemy is receiving reinforcements daily and will no doubt increase to three or four thousand in four or five days. If this call is neglected, I am determined to sustain myself as long as possible

and die like a soldier who never forgets what is due to his own honor and that of his country—Victory or Death.

WILLIAM BARRET TRAVIS,  
Lieutenant Colonel Commandant.

Colonel Travis' letter captures the heart and soul of the people of Texas, and I am honored to recognize the statehood sesquicentennial of my beloved Texas. •

**SIGNING DULY ENROLLED BILLS**

Mr. DOLE. Mr. President, today when the Senate convened, the President pro tempore, Senator THURMOND, appointed the Senator from Idaho, Senator KEMPTHORNE, to be Acting President pro tempore for the day. It is my understanding Senator THURMOND is necessarily absent attending business in South Carolina and attending the funeral of the president pro tempore of the South Carolina State Senate, the Honorable Marshall Williams.

While Senator KEMPTHORNE was Acting President pro tempore for today, one of his responsibilities was to sign duly enrolled bills. Signing enrolled bills is part of the process necessary prior to the documents being sent to the White House for the President's approval or disapproval.

Senator KEMPTHORNE had the distinct pleasure to sign the following enrolled bills, therefore facilitating their being sent to the White House: H.R. 4, welfare reform; H.R. 394, State pensions; H.R. 1878, enrollment of HMO's; and H.R. 2627, Smithsonian coin.

I want to commend Senator KEMPTHORNE and congratulate him on his work today. I hope the President signs all the bills. That may or may not be the case.

**REAUTHORIZING THE TIED AID  
CREDIT PROGRAM**

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2203, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2203) to reauthorize the Tied Aid Credit Program of the Export-Import Bank of the United States, and to allow the Export-Import Bank to conduct a demonstration project.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOLE. Mr. President, I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2203) was deemed read the third time and passed.

#### FEDERAL TRADEMARK DILUTION ACT OF 1995

Mr. DOLE. Mr. President, I ask unanimous consent to proceed to the immediate consideration of H.R. 1295, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1295) to amend the Trademark Act of 1946 to make certain revisions relating to the protection of famous marks.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, passage of this bill is part of our effort to improve intellectual property protection around the world. I hope that it will serve to improve trademark enforcement domestically and serve as a model for our trading partners overseas.

Along with the Anti-Counterfeiting and Consumer Protection Act of 1995, S. 1360, which recently passed the Senate and has already been the subject of a hearing and markup before the House Judiciary Committee's Subcommittee on Courts and Intellectual Property, this bill will help protect the good names, reputations for quality, and investments of American companies from IBM to Ben & Jerry's.

Although no one else has yet considered this application, it is my hope that this antidilution statute can help stem the use of deceptive Internet addresses taken by those who are choosing marks that are associated with the products and reputations of others.

I thank our House colleagues for their work on this bill. It is a pleasure to work with Chairman MOORHEAD and the House subcommittee on these matters. I commend, in particular, Representative SCHROEDER for her outstanding work on this measure. Our House colleagues have announced their intention not to seek reelection next fall. Their leadership and judgment will be greatly missed.

When we in the Senate last considered and passed a similar bill to provide an injunctive remedy against the dilution of the effectiveness of distinctive marks, we did so as part of more comprehensive trademark revision legislation in 1988. Since that time the dilution of well-known marks has become a greater problem both domestically and, especially, internationally.

We intend for this legislation to strengthen the hand of our international negotiators from the Office of the U.S. Trade Representative and the Department of Commerce as they press for bilateral and multilateral agreements to secure greater protection for

the world famous marks of our U.S. companies. Foreign countries should no longer argue that we do not protect our marks from dilution, nor seek to excuse their own inaction against practices that are destructive of the distinctiveness of U.S. marks within their borders.

I am delighted that bill now includes express reference to fair use, news reporting, and news commentary. I continue to believe, as our House colleagues also affirm, that parody, satire, editorial, and other forms of expression will remain unaffected by this legislation.

Finally, I want to acknowledge the strong support of the U.S. Patent and Trademark Office, the Department of Commerce, and that of the International Trademark Association and its many members. Without their efforts, we would not be in position to approve this legislation and send it to the President for his signature.

Mr. President, this was an example of Senator HATCH, myself, and others working in a bipartisan effort to get a major piece of legislation through. I thank the leader for his efforts in getting it through.

Mr. DOLE. Mr. President, I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 1295) was deemed read the third time and passed.

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on today's Executive Calendar: Calendar No. 439.

I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, that any statements relating to the nomination appear at the appropriate place in the RECORD, that the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the nomination was considered and confirmed, as follows:

Jed S. Rakoff, of New York, to be U.S. District Judge for the Southern District of New York.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

#### ORDER OF PROCEDURE

Mr. DOLE. Mr. President, let me indicate that we have had a meeting all afternoon at the White House, and I will say, without violating our agreement on statements, afterward we had a good working session. We covered a lot of ground. We are going to meet tomorrow morning. We are going to be there all day, and probably through the evening. We will determine then whether or not we will be here Sunday or Monday. I think it is fair to say that we had a constructive session where everybody, in my view—regardless of party, regardless of being from the White House, Democrats or Republicans, the House or the Senate—had one thing in mind: trying to move the process along to get a balanced budget over the next 7 years.

I think there is a recognition that most Americans, regardless of party, want us to do that. We are not there yet. We have a lot of work to do. But I would say that today has been a day of progress.

I would also say that it had been my hope earlier that we could work out an agreement where Federal employees could go back to work. A week ago today we passed a measure in the Senate by unanimous consent that, in effect, deemed all Federal employees "essential" and also guaranteed that they would be paid. That bill went to the House, but it has not been considered.

I was advised today by the majority leader in the House, Congressman ARMEY, and the speaker, Congressman GINGRICH, that if we would send to the House the same measure we passed last week, and the so-called Mideast Peace Facilitation Act, and a third provision with reference to expedited procedures, so that once an agreement is reached there will be some expedited procedure in the Senate so that we will be certain we get a disposition of it, that they would be able to take that up today, Friday, by unanimous consent in the House. That was their best judgment. And so I was in hopes that we could work that out on the Senate side.

I was advised at the White House by the distinguished Democratic leader, Senator DASCHLE, that they would have to object because of the expedited procedure language, which seems to me something we ought to be able to work out. If we want people to go back to work and we want to make certain they will be paid and we also want to pass another very important piece of legislation, we ought to be able to reach some agreement on how we are going to handle the bill if we have an agreement, or if we do not have an agreement, how would we handle the balanced budget amendment.

I will ask that the text of this be printed in the RECORD after I ask unanimous consent, which will be objected to. But we have just taken the Budget Act, reduced the time to 10 hours, open

to amendment during that 10 hours. Otherwise, we kept the Byrd amendment, for example. So we hope that the Democratic leader will have an opportunity between now and tomorrow to maybe come back with a counteroffer, because we are ready to act, put people back to work, and my view is that it is a very important matter that should be attended to.

**UNANIMOUS CONSENT REQUEST—  
H.R. 2808**

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2808, regarding Middle East peace facilitation, that there be one amendment in order, which contains identical text of H.R. 2808, identical text of S. 1508, the so-called back to work provision, and expedited procedure language with respect to Senate consideration of the Balanced Budget Act by 2002, that the amendment be deemed agreed to, the bill be read the third time, and passed, and the motion to reconsider be laid upon the table, all without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, Mr. President. There would be no objection to the passage of the Middle East Peace Facilitation Act, which I think the majority of Senators on both sides of the aisle would like to see passed and I think would be critical in the interest of the countries in the Middle East for peace, but also in our own national security interests.

The back to work provision was passed, as the distinguished majority leader knows, with the support of the Democratic leader and all Members on this side of the aisle and on his side by unanimous consent last Saturday. And the other body had decided to take off and, I guess, go home on the Christmas vacation and not take it up. So we would have no objection to that.

The last part is the part I object to, Mr. President, because what we are saying is we will change the Senate rules on the time of debate and all on a bill, which nobody—neither the distinguished majority leader nor myself—knows what is in it. We all know we have the same goal, and both he and I agree to have a balanced budget by 2002. But we do not know what is in it. I do not think I would be able to get consent of many Members to waive, basically, the Senate rules on a piece of legislation that we have not yet seen. But I certainly hope that some type of procedure can be put together, and I assume that at the time when the budget comes up, it will be under some form of expedited procedure.

So I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. Mr. President, let me indicate that, of course, under one sce-

nario, if an agreement is reached, it will be reached with the President of the United States and with the Democratic leaders of the House and the Senate. So it is not something that has not been discussed. I know they are doing—as we are doing—checking with every committee chairman on every issue that might affect anyone's jurisdiction. The Democrats are doing it and the Republicans are doing it. We want to make certain that as many people as possible can be consulted as we proceed to try to reach some agreement on a balanced budget over the next 7 years scored by the Congressional Budget Office which the American people by a large margin want.

For the last couple of weeks, there has been this problem of Federal workers and whether or not they could go to work. Some tried to go, and they were turned away. There is a lot of gnashing of teeth by Federal workers through no fault of their own because the appropriations bill were vetoed—for example, whether it was the HUD-VA, or Interior, or the State, Justice, Commerce veto by the President. Those people are not working.

The President signed the Agriculture bill. So the people in the Department of Agriculture are working.

Labor-HHS is being held up on a party-line vote. We cannot bring it up on the floor. There are a lot of employees there who are not working.

We did by unanimous consent cover the District of Columbia until January 3.

That leaves one bill, foreign operations, which is hung up over one amendment, and we believe that could and should be resolved at an early date.

But the point is now we are in the position where at least by deeming the Federal workers to be essential employees and by in effect guaranteeing pay, that they will get it right away, but once the budget agreement has been agreed to, it would happen. All that is holding us up now and everybody going back to work tomorrow, or Sunday, or Monday, or Tuesday after the holidays is whether or not my colleagues on the other side will help us expedite the passage of a balanced budget agreement.

Now, it seems to me that we ought to be able to work that out. I am prepared to do that. I think the Senator from South Dakota, the Democrat leader, indicated after we left the White House that he was certainly willing to discuss it further.

We will be in session tomorrow. The House is on call. They can be in session tomorrow. And it is my hope that we can figure out some way to pass this package, unless there is a modification that we have not thought of. We could put a time agreement on how long it would be in effect. So it would only be a temporary modification of the present rules maybe until February 15,

whatever. But I hope that we will sit down and work it out.

I think the White House has an interest in trying to resolve this issue. And they have copies. I have given a copy of this to the President. I discussed it with the President myself before I left the White House. Mr. Panetta has a copy. Hopefully there will be enough ideas and thoughts on it overnight so that early in the morning we can reach some agreement, get it passed, and let people go back to work—the people who are caught in the middle, so to speak—and let them go back to work knowing that they will be paid.

So I ask unanimous consent that the text of the bill I proposed be printed in the RECORD so my colleagues may have an opportunity to study it tomorrow.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

**SEC. 3. CONGRESSIONAL CONSIDERATION OF  
THE BALANCED BUDGET BILL.**

(a) INTRODUCTION AND CONSIDERATION OF THE BALANCED BUDGET AGREEMENT.—

(1) INTRODUCTION.—The balanced budget bill, described in (a)(3), shall be introduced in the House of Representatives by the Chairman of the Budget Committee of that House and, in the Senate, by the Majority Leader, after consultation with the Minority Leader. In the Senate, the balanced budget bill shall not be referred to committee but shall be placed directly on the Calendar.

(2) CONSIDERATION.—In the Senate, the balanced budget bill shall be considered as if it were a reconciliation bill pursuant to section 310 of the Congressional Budget Act of 1974, with the following exceptions:

(A) Debate in the Senate on the balanced budget bill, and all amendments, thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours.

(B) Upon expiration of the 10 hours of debate, without intervening action, the Senate shall proceed to vote on the final disposition of the balanced budget bill.

(3) BALANCED BUDGET BILL.—As used in this section, the term “balanced budget bill” means the bill that achieves a balanced budget not later than fiscal year 2002 that is introduced pursuant to subsection (a).

(b) REVISED AGGREGATES AND ALLOCATIONS.—

(1) REVISION.—The chairman of the Committee on the Budget of the House of Representatives and the chairman of the Committee on the Budget of the Senate shall each submit to its House—

(A) revised levels of total new budget authority, budget outlays, and Federal revenues set forth in House Concurrent Resolutions 67 (One Hundred Fourth Congress) as required by section 301 of the Congressional Budget Act of 1974; and

(B) revised allocations of new budget authority and total outlays and in the House entitlement authority set forth in the joint explanatory statement accompanying the conference report on that concurrent resolution as required by section 602 of the Congressional Budget Act of 1974,

consistent with the balanced budget bill introduced pursuant to subsection (a).

(2) ADJUSTMENTS.—The adjustments required under (1) shall be made upon the introduction of the balanced budget bill pursuant to subsection (a).

(3) EFFECT OF REVISED ALLOCATIONS AND AGGREGATES.—In the House of Representatives and the Senate, revised levels and allocations submitted under paragraph (1) shall be deemed as the levels and allocations for purposes of sections 302 and 602, and 311 of the Congressional Budget Act of 1974.

(4) Upon the enactment of a bill referred to in subsection (b), the chairmen of the Committees on the Budget may make necessary technical revisions to the revised allocations made under subsection (b).

#### MAKING MINORITY PARTY APPOINTMENTS FOR THE COMMITTEE ON VETERANS' AFFAIRS

Mr. LEAHY. Mr. President, on behalf of the Democrat leader, I send to the desk a resolution making minority committee appointments, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 206) making minority party appointments for the Committee on Veterans' Affairs.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Without objection, the resolution is agreed to.

So the resolution (S. Res. 206) was agreed to; as follows:

S. RES. 206

*Resolved*, That the following shall constitute the minority party's membership on the Committee on Veterans' Affairs for the second session of the 104th Congress, or until their successors are appointed: Mr. Rockefeller, Mr. Graham, Mr. Akaka, Mr. Wellstone, and Mrs. Murray.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### FEDERAL WORKERS

Mr. LEAHY. Mr. President, if the majority leader could withhold just another moment, I want it clearly understood from this side that we are in agreement to pass the Middle East Peace Facilitation Act. I believe it should be passed. I do not think it is right to be holding that up. We are also willing to pass the back-to-work provision. After all, we agreed to it and worked on drafting it last week.

I would express the same concern I expressed earlier today, that it is very difficult for Federal workers, who do want to go back to work, who are unable to pay their bills as time goes on, who are greatly needed just to have this country run the way it is supposed to, not going back to work, and yet they have seen, frankly, in the other body those who did not want to take

this up have the taxpayers pay for their airfare to go back home for Christmas vacation and to pay their salaries of about \$500 a day every day they are home for Christmas vacation, and have them say, "We can't go forth." I think that is wrong.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

#### ORDERS FOR SATURDAY, DECEMBER 30, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10 a.m., Saturday, December 30, that following the prayer, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period for morning business for not to extend beyond 10:30 a.m., with statements limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. DOLE. The Senate will be in tomorrow. It says here "briefly." I am not certain of that. We may be in recess for a considerable time, but the Senate will be in tomorrow. Unless there is something developing fairly early tomorrow, we will try to come back and recess the Senate. We will not be in session—let us see. We will make that determination tomorrow. Tuesday, that may happen because right now there is the urgency to get the Federal employees back to work. So it could even be Monday that we would be in session. So I am not going to refer to some of these things.

But in the event we are not in session until Wednesday, we will be in at 11:55 a.m., Wednesday, and we will adjourn the first session of the 104th Congress; and then the second session of the 104th Congress will begin at noon on Wednesday. I do not anticipate any rollcall votes. I have told my colleagues on both sides of the aisle we at least will give them 24 hours notice. It is hoped if we reach some agreement on Federal employees we could do it by unanimous consent. If there is a rollcall vote, we will try to give ample notice because I know some people have to come from some distance.

Is there anything else?

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

#### BUDGET NEGOTIATIONS

Mr. LEAHY. Mr. President, first, I want to repeat what I said earlier today. I commend the distinguished majority leader and the distinguished

Democratic leader for their efforts. And I commend the President of the United States. I have talked with the distinguished majority leader about this, and without going into that discussion, I have discussed it also with the distinguished Democratic leader, and I have discussed the budget discussions with the President. I am absolutely convinced that all three want to find our way out of this. I am also convinced that the Republican leader, the Democratic leader, and the President want to have a balanced budget by the year 2002.

Obviously, as I said earlier today, there will not be a budget that has everything President Clinton wants in it and there will not be a budget that has everything the distinguished majority leader wants in it or the distinguished Democratic leader wants in it or everything I might want in it. But we can reach agreement.

I am concerned that some in the other body seem to think of this as some kind of a holy crusade where they must have every single item they can think of, irrespective of the damage it does to the majority of House and Senate Members of both parties. That is not what was considered by the Founders of this country. It is not the reason we have different parties. It is not the reason why we have two bodies of the Congress and a President.

It is difficult for other countries around the world to look at this, the most powerful Nation on Earth, the largest economy on Earth, a democracy which is held up as a shining example around the world, to see us paralyzed in this way. It is not the way it was intended to be. It is not the way it should be.

So I suggest that perhaps it is time to stop the gimmicks of holding up tin foil keys or saying we will be here and work this out, and then immediately afterward hopping on an airplane at taxpayers' expense to go home for Christmas vacation, and to do what the distinguished majority leader and the distinguished Democratic leader and the President are doing, sit down and try to work this out.

But I hope, Mr. President, and I believe I am joined by most Members of this body in this hope, that we let those Americans who are out of work in the Federal Government, who have a vital role to play in making the greatest, most powerful Nation on Earth operate, let them go back to work.

Every one of us joined in sorrow when so many of those Federal workers in the home State of the distinguished Presiding Officer died. We did not ask whether they were Republicans or Democrats, liberals or conservatives, we just knew that brave Americans who support our country and help our country operate died in the terrible terrorist blast.

But we have a lot of other Americans too who come with pride to work for

their country. And that pride has to be shaken. And their whole question of being has to be shaken. I hope we can put them back to work. And I hope that we can show the rest of the country and the rest of the world how a great nation operates in a democracy.

Certainly that does not mean that I will agree with everything that the distinguished majority leader might propose in this budget, nor he with me, nor perhaps either one of us with all the things that the President might propose. But I have been here for 21 years, the distinguished majority leader has been here for 27 years, and had served with distinction in the other body prior to that. He and I have been on many committees of conference. We have been in many leadership meetings where we have debated proposals. We know that nobody ever walks out a winner on every single point that they came in wanting.

But I think it is safe to say he and I many times have been in meetings, sometimes contentious, sometimes not, but ultimately everybody wanted to do what was best for the country. So I wish him well. I wish Senator DASCHLE well. I wish the President well. I wish everybody else who is involved in these

negotiations well because this country needs it. This has gone beyond party or person. It is what the country needs. I yield the floor.

Mr. DOLE. Mr. President, I will not extend this but just to thank the Senator, my colleague, my friend from Vermont, and to indicate I think there is this sense, at least in our meeting today, that everybody is going to have to give. It is not all going to be one way or the other. So I think there is that recognition by parties on both sides.

Obviously, it has to continue. We would like to have everything. They would like to have everything. But the American people, what they really want is a 7-year balanced budget using CBO numbers or the same numbers. They may not understand congressional numbers, White House numbers, but they understand using the same numbers. So I hope we can accomplish that. I would not bet the farm on it yet.

In any event, many of us would like to be other places—like Iowa or New Hampshire—today, but we are working on a balanced budget. I hope people there will understand that.

RECESS UNTIL 10 A.M. TOMORROW

Mr. DOLE. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 8:15 p.m., recessed until Saturday, December 30, 1995, at 10 a.m.

## NOMINATIONS

Executive nominations received by the Senate December 29, 1995:

### U.S. ENRICHMENT CORPORATION

CHARLES WILLIAM BURTON, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. ENRICHMENT CORPORATION FOR A TERM EXPIRING FEBRUARY 24, 2001. (REAPPOINTMENT)

### DEPARTMENT OF EDUCATION

GERALD N. TIROZZI, OF CONNECTICUT, TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION, VICE THOMAS W. PAYZANT, RESIGNED.

## CONFIRMATION

Executive nomination confirmed by the Senate December 29, 1995:

### THE JUDICIARY

JED S. RAKOFF, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.